



**To:** Business Coordination Board

**From:** Acting Chief Executive

**Date:** 02 July 2020

## **FIRE GOVERNANCE UPDATE**

### **1. Purpose**

1.1 The purpose of this report is to update the Business Coordination Board (“the Board”) following the approval from the Home Secretary for the Police and Crime Commissioner (“the Commissioner”) to take on responsibility for governance of Cambridgeshire Fire and Rescue Service.

### **2. Recommendation**

2.1 The Board is recommended to note the update.

### **3. Summary**

3.1 New legislation in 2017 enabled Police and Crime Commissioners to take on responsibility for fire governance where a case is made. In response, independent consultants were jointly commissioned by Cambridgeshire and Peterborough Fire Authority (“the Fire Authority”) and the Commissioner to assess the governance options and prepare a local business case. The local business case recommended that the model whereby the Commissioner takes on the functions of the Fire Authority offered the greatest benefit. Following consultation, the Commissioner submitted the business case to the Home Secretary in October 2017.

3.2 As upper tier authorities did not agree with the proposal, the Home Office commissioned an independent assessment of the Commissioner’s proposal. Following Home Office consideration the proposal was approved by the Home Secretary in March 2018. Preparations were made for the transfer in Spring 2018. But a short time before Home Office legislation was to bring the change into effect the Fire Authority submitted a legal challenge to the Home Office decision.

- 3.3 The judicial review hearing took place in June 2019 and was dismissed by the High Court at the end of July 2019. The Fire Authority's application to appeal was dismissed by the Court of Appeal in March 2020.
- 3.4 While still being clear that the original decision was the right one and in the interest of the local community, the Home Office has recently informed the Commissioner that in light of the time that has passed since the approval decision, an updated business case will be required. The Home Office will not be able to reconsider a business case until after the Police and Crime Commissioner elections in 2021. The Home Office also restated its commitment to supporting Police and Crime Commissioners to take on fire governance where a case exists and to close collaboration between emergency services.
- 3.5 Despite the uncertainties created by the legal challenges, collaboration between the fire and police services remain strong. Further opportunities are being actively explored.

#### **4. Background**

- 4.1 The Policing and Crime Act 2017 (the "Act") placed a duty on police, fire and rescue and ambulance services to explore opportunities for collaboration, and enables Police and Crime Commissioners to take on responsibility for the governance of fire and rescue services in their area where a case is made to do so.
- 4.2 Recognising the sensitivity of the issues involved independent consultants were commissioned jointly by the Fire Authority and the Commissioner to assess the governance options and prepare a local business case.
- 4.3 The local business case recommended that the 'PCC-style FRA Governance' Model, whereby the Commissioner takes on the functions of the Fire Authority, offered the greatest benefit.
- 4.4 The provisions of the Act place a requirement on the Commissioner to consult if they wish to take on the governance of Fire. Pre-consultation engagement and public consultation was undertaken in summer 2017. A total of 2,426 people and organisations responded during the nine week consultation period. Demographic data collected demonstrated a wide range of people participated and engaged in the consultation. While neither of the two upper tier authorities supported the proposal for the PCC-style FRA Governance Model, the public were broadly supportive with the prevailing view of "it makes sense" featuring strongly.
- 4.5 The Commissioner's proposal to take on the governance of the Cambridgeshire Fire and Rescue Service was submitted to the Home Office in October 2017.
- 4.6 Where the upper tier authorities do not agree with a proposal the Home Office is required to obtain an independent assessment of the proposal. The Home Secretary takes into account the findings of the independent review when making the final decision whether or not to approve the Commissioner's proposal. The Minister of State for Policing and the Fire Service requested the Chartered Institute of Public Finance & Accountancy ("CIPFA") to undertake an independent assessment of the Cambridgeshire proposal.

- 4.7 On 26th March 2018 the Home Secretary announced that the Commissioner for Cambridgeshire would be one of three more Commissioners to take on responsibility for local fire and rescue services. The Home Secretary considered that the Cambridgeshire proposal demonstrated that a transfer of governance would be in the interests of economy, efficiency and effectiveness and would not have an adverse effect upon public safety.
- 4.8 The Home Secretary indicated that the Home Office would seek to give effect to the proposal through a statutory instrument which they anticipated would take effect in June or July 2018. Staff in the Office of the Police and Crime Commissioner (“the OPCC”) and the Fire and Rescue Service worked with the Home Office during spring 2018 to ensure a smooth transition. However, the week the necessary statutory instrument was due to be laid before Parliament (21 days before it was due to take effect) the Fire Authority put forward a legal challenge to the Home Secretary’s decision.

## **5. Legal Proceedings**

- 5.1 The judicial review hearing took place on 5<sup>th</sup> and 6<sup>th</sup> June 2019. The Fire Authority’s judicial review of the Home Secretary’s decision was dismissed by the High Court at the end of July 2019.
- 5.2 The Fire Authority, however, continued to pursue their legal challenge of the Home Secretary’s decision. In August 2019 the Fire Authority sought permission to appeal (having been refused by the Judge who heard the case). They also submitted two further legal challenges. The Fire Authority’s application to appeal was dismissed by the Court of Appeal in March 2020.
- 5.3 While still being clear that the original decision was the right one and in the interest of the local community, on 18<sup>th</sup> June the Home Office informed the Commissioner that in light of the time that has passed since the approval decision, an updated business case will be required. The Home Office will not be able to reconsider a business case until after the Police and Crime Commissioner elections in 2021. The Home Office also restated its commitment to supporting Police and Crime Commissioners to take on fire governance where a case exists and to close collaboration between emergency services.
- 5.4 The Government Legal Department has written to the Fire Authority to inform them of this pause and to ask that they withdraw the further JR proceedings as these have now become redundant in light of the Appeal outcome and current developments.
- 5.5 Despite the uncertainties created by the legal challenges, collaboration between the fire and police services remain strong. Further opportunities are being actively explored.

## **6. Recommendation**

- 6.1 The Board is recommended to note the update.

**BIBLIOGRAPHY**

<p><b>Source Document(s)</b></p>	<p><a href="#">Letter to the Police and Crime Commissioner from Kit Malthouse MP, Minister of State for Crime and Policing, 18<sup>th</sup> June 2020</a></p> <p><a href="#">Item 11.0, Fire Governance Update’ Business Coordination Board, 25<sup>th</sup> February 2020</a></p> <p><a href="#">Item 12.- ‘Fire Governance Update’, Business Coordination Board, 18<sup>th</sup> September 2019</a></p> <p><a href="#">Item 12.0 – ‘Fire Governance Update’, Business Coordination Board, 31<sup>st</sup> July 2019</a></p> <p><a href="#">Item 11.0 ‘Fire Governance Update’, Business Coordination Board, 1st November 2018</a></p> <p><a href="#">Item 7.0 ‘Fire Governance Update’, Business Coordination Board, 12<sup>th</sup> April 2018</a></p> <p><a href="#">Background information</a> - including the letter from the Home Secretary approving the proposal to transfer fire governance to the Police and Crime Commissioner and independent assessment by CIPFA and the submission to the Home Office including the business case and details of the comments made through the consultation and the Commissioner’s response to them</p>
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